

REMARKS

Reconsideration and further examination of this application is respectfully requested. Claims 1-14 were previously amended. Claims 1 and 12 have been further amended to address issues regarding 35 U.S.C. 112, second paragraph. Therefore, Applicants submit claims 1-14 for further examination.

In the subject Office Action, the Examiner rejected claims 1 and 12 under 35 U.S.C. 112, second paragraph, because “Claims 1 and 12 recite the limitation ‘said maximum number of devices’ in the third portion of the claim limitation. There is insufficient antecedent basis for this limitation in the claim, as it is not previously mentioned.” Applicants have amended the subject limitation of claims 1 and 12 to recite “providing a plurality of active devices that equals a maximum number of devices, said maximum number of devices corresponding to said maximum number of network addresses.” *Emphasis added.* Thus, the maximum number of devices is introduced in the subject limitation of claims 1 and 12, and then defined to correspond to the previously introduced maximum number of network addresses. Therefore, the subject limitation of claims 1 and 12, as amended, is proper under 35 U.S.C. 112, second paragraph.

In the subject Office Action, the Examiner further rejected claim 1 under 35 U.S.C. 112, second paragraph, because “Claim 1 recites the limitation ‘said at least one network device.’ It is not clear if the network device is referring to a spare device or an active device.” Applicants have amended the phrase “said at least one network device” to recite “said at least one spare device.” Thus, it is clear that claim 1, as amended, is referring to the spare device. Therefore, claim 1 is proper under 35 U.S.C. 112, second paragraph.

No new matter has been added by the above described amendments.

Entry of the above described amendments is proper since the amendments comply with a requirement of form under 37 C.F.R. 1.116(b), which states that “After a final rejection or other final action ... amendments may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action.” *Emphasis added.* As described above, the amendments to the claims were necessary to bring the claims into compliance of form with 35 U.S.C. 112, second paragraph as outlined in the subject Final Office Action. Therefore, it is proper to admit the above described amendments under 37 C.F.R. 1.116.

Entry of the remarks concerning validity of the claims in this *Amendment B After Final Under Rule 1.116* is proper because Applicant is responding to new arguments and new reasons

for rejections submitted by the Examiner in the subject Final Office Action submitted April 29, 2008. Rule 1.116(e) states that “[a]n affidavit or other evidence submitted after a final rejection or other final action . . . in an application . . . may be admitted upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented.” Since the following remarks are in response to arguments and new reasons for rejection presented for the first time by the Examiner in the subject Final Office Action, Applicants were not able to respond to the arguments and new reasons for rejection until such Final Office Action was issued. Thus, Applicants have good and sufficient reason for not presenting the following remarks until this time.

In the subject Office Action, the Examiner rejected claims 1-2 and 12 under 35 U.S.C. 103(a) as being unpatentable over Nguyen et al. (USPN 6, 609,213) (hereinafter Nguyen) in view of Swales (USPN 6,982,953) and in further view of Wang et al. (USPN 6,470,382) (hereinafter Wang). The Examiner rejected claims 3-8, 10-11 and 13-14 under 35 U.S.C. 103(a) as being unpatentable over Nguyen in view of Swales in further view of Wang and in further view of view of Hanan et al. (USPN 6,792,486) (hereinafter Hanan). The Examiner rejected claim 9 under 35 U.S.C. 103(a) as being unpatentable over Nguyen in view of Swales in further view of Wang in further view of Hanan and in further view of Corrington et al. (USPN 6,076,142) (hereinafter Corrington).

In the rejection for claim 1 on page 4 of the subject Office Action, the Examiner asserted that Fig. 1 (particularly with regard to items 18, 14a-d, and 28a-d) of Nguyen discloses a system “providing at least one spare device (e.g. cluster server 18 of FIG. 1) such that said at least one spare device (18 of FIG. 1) plus said plurality of active devices (14a-d of FIG. 1) results in a total number of system devices (18, 14a, 14 b, 14c and 14d of FIG 1) that exceeds said number of network addresses (28a, 28b, 28c and 28d).” However, this recitation of the disclosure of Nguyen does not match the recitation of claim 1 of the subject patent application. Claim 1 of the subject patent application recites “providing at least one spare device such that said at least one spare device plus said plurality of active devices results in a total number of system devices that exceeds said maximum number of network addresses” (*emphasis added*) where said maximum number of network addresses is defined to correspond to “said maximum limit for said number of network addresses for said networking protocol of said computer network communications system.” Thus, claim 1 recites that the number of active devices and spare devices added

together exceeds the maximum allowable number of network addresses on the computer network system. As stated in the quote from page 4 of the subject Office Action reproduced above, the Examiner asserted that Nguyen discloses a system where the addition of the spares (28a-d of FIG. 1 of Nguyen) exceeds a previous number of network devices, not a maximum number of network addresses allowed on the network system as recited in claim 1 of the subject patent application. Applicants are unable to locate a disclosure in Nguyen that the total number of active and spare network devices exceeds the maximum number of network addresses permitted on the network communications system. Further, Applicants are unable to locate a mention that there is a maximum number of allowable network addresses to exceed in the Nguyen reference. Thus, Nguyen does not disclose, teach or suggest a system where the number of active devices and spare devices added together exceeds the maximum allowable number of network addresses on the computer network system.

In the rejection for claim 1, the Examiner asserted that “Nguyen-Swales do not explicitly disclose a maximum limit for the number of network addresses or setting an individual address value of each of the plurality of active devices to an unallocated network address.” However, the Examiner asserted that the disclosure of Wang at column 6, lines 60-65 teaches a maximum amount of network addresses and devices. Column 6, lines 60-65 of Wang state: “For example, the present invention theoretically can dynamically address, manage, and access a quantity of SCSI devices limited only by the quantity of unique addresses available in the 32 bit IP address, the 48 bit MAC address, or the SCSI address limitation in combination with the virtual bus limitation.” *Emphasis added.* Thus, the disclosure of Wang teaches that there is a limited quantity of network addresses that is limited by the maximum number of unique addresses available. However, the disclosure of Wang at column 6, lines 60-65 quoted above also explicitly teaches that the number of SCSI devices of the Wang system is limited to the maximum number of network addresses available. Thus, Wang does not disclose a system that has a number of spare and active devices that add together to exceed the maximum number of network addresses available as is recited in claim 1 of the subject patent application.

In the rejection of claim 1 on page 7 of the subject Office Action, the Examiner asserts reasons that Nguyen, Swales and Wang combine to disclose the limitations of claim 1 by asserting:

“It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to recognize that a network, such as the system/method of Nguyen-Swales, is restricted by a limitation such as the quantity of unique address as described by Wang. One of ordinary skill would recognize that a system can ideally manage a maximum quantity of devices limited only by these address restrictions. One would be motivated to combine these teachings because setting an individual address for each operating device allows each device to be distinguished from other devices during intercommunications.” *Emphasis added.*

Thus, as asserted by the Examiner, the combination of Nguyen-Swales-Wang discloses a system that limits or restricts the number of devices of the system to the maximum number of addresses available on the network.

Claim 1 of the subject patent application recites: “providing at least one spare device such that said at least one spare device plus said plurality of active devices results in a total number of system devices that exceeds said maximum number of network addresses.” *Emphasis added.* Claim 1 clearly recites that the total number of devices (active and spare) exceeds the maximum number of network addresses. As described above Nguyen discloses a system that adds spare devices to a system but does not disclose a system where the number of spare devices and active devices add together to exceed the maximum number of network addresses available on the network system. The Examiner appears to agree with this interpretation of Nguyen as the Examiner asserts that “Nguyen-Swales do not explicitly disclose a maximum limit for the number of network addresses.” To make up for this deficiency of Nguyen-Swales, the Examiner asserts that Wang discloses a network system having a maximum number of network addresses. However, the Examiner does not assert that Wang discloses a system where the number of spare devices added to the number of active devices exceeds the maximum number of network addresses available on the network system. As described above, the assertions of the Examiner appear to reinforce the Applicants understanding that the systems of Nguyen, Swales and Wang limit the number of devices to the maximum allowable number of network addresses for the network system. Thus, Nguyen in view of Swales and further in view of Wang does not disclose, teach or suggest a system where the number of spare devices added to the number of active devices exceeds the total number of network addresses available on the network system as recited by claim 1 of the subject patent application. Therefore, claim 1 of the subject patent application is not rendered obvious under 35 U.S.C. 103(a). Hanan is directed to switches attached to drives for connection to first, second, and third elements. Corrington is directed a


system that permits a controller to reset the system. Thus, Hanan, and Corrington do not make up for the deficiencies of Nguyen-Swales-Wang. Therefore, the Examiner has failed to make a proper *prima facie* rejection of claim 1 under 35 U.S.C. 103(a) and claim 1 does not fail under 35 U.S.C. 103(a).

Independent claims 7 and 12 have similar limitations to claim 1. Thus, the rejections of claims 7 and 12 under 35 U.S.C. 103(a) are also improper for the same reasons as set forth for claim 1. Claims 2-6, 8-11, 13 and 14 are dependent claims depending from independent parent claims 1, 7, or 12. Therefore, dependent claims 2-6, 8-11, 13 and 14 are also not rendered obvious under 35 U.S.C. 103(a) since the independent parent claims 1, 7 and 12 are not rendered obvious by the prior art.

For these reasons, claims 1-14 are proper and are considered to be patentable over the prior art. Therefore, this application is now considered to be in condition for allowance and such action is earnestly solicited.

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